

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2043 - SB 2277

March 5, 2018

SUMMARY OF BILL: Creates a new element of rape for persons that knowingly commit the offense to a person with an intellectual disability, and increases the sentence range to up to Range III, if appropriate, but no lower than Range II.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$492,500 Incarceration*

Assumptions:

- Tennessee Code Annotated § 39-13-503 defines rape.
- The proposed legislation adds to the definition of the circumstances of rape to be when a defendant knows or has reason to know that the victim is intellectually disabled.
- The proposed legislation would make the rape of an intellectually disabled person a Class A felony, punishable by up to a Range III sentence, but no less than a Range II.
- Statistics from the Department of Correction (DOC) show an average of 47 admissions per year over the last ten years for rape. It is assumed that two percent ($47 \times .02 = .94$) of these admissions were committed against a person with an intellectual disability, resulting in one conviction every year thus becoming enhanced from a class B felony to a class A felony.
- Population growth will not impact these admissions.
- Statistics from the DOC show the average time served for rape is 10.78 years.
- Tennessee Code Annotated § 40-35-501(i) requires that persons convicted of rape, to serve 100 percent of the sentence received, with a maximum of 15 percent sentencing credits.
- The average sentence received for rape is 10.78 years.
- The proposed legislation requires the offender to be sentenced no less than within Range II of the sentencing matrix. A reasonable sentence within Range II for a rape conviction is 35 years.
- With sentencing credits as provided in Tenn. Code Ann. § 40-35-501(i), the offender is required to serve 85 percent of the sentence imposed.
- The average time served under a Range II rape conviction is 29.75 years ($35 \text{ years} \times .85$).
- The proposed legislation will result in the offender serving an additional 18.97 years

(29.75 – 10.78).

- According to the DOC, the average operating cost per offender per day for calendar year 2018 is \$71.08.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving an additional 18.97 years (6,928.79 days) at a cost of \$492,498 (\$71.08 x 6,928.79 days).
- Any impact to the caseloads of the courts, public defenders, and district attorneys can be accommodated within their existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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